

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

Case No. 5:22-CV-00530-M-BM

ROSE MARIE EDWARDS  
BAKER R DUNN JR.,

Plaintiff,

v.

ROGENE EARL HOLDEN,

Defendant.

ORDER

This matter comes before the court on the memorandum and recommendation (the “Recommendation”) entered by Magistrate Judge Brian S. Meyers in this case on August 23, 2024 [DE 25]. In the Recommendation, Judge Meyers recommends that the court dismiss the complaint as frivolous and for failure to state a claim on which relief may be granted. DE 25 at 10. The Recommendation, along with instructions and a deadline for filing objections, was served on Plaintiff on August 23. *See id.* at 10-11. Plaintiff raised no objection to the Recommendation. *See* Docket Entries dated August 23, 2024, to present.<sup>1</sup>

A magistrate judge’s recommendation carries no presumptive weight. The court “may accept, reject, or modify, in whole or in part, the . . . recommendation[ ] . . . receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (1976). The court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection


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<sup>1</sup> On August 23, the same day Judge Meyers entered the Recommendation, Plaintiff appears to have re-filed her original complaint. *Compare* DE 26, *with* DE 1-3. Because Plaintiff did not amend any allegation in the complaint, that later filing is without legal effect.

is made.” *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Upon careful review of the Recommendation and the record presented, the court finds no clear error. *See Diamond*, 416 F.3d at 315. The court thus ADOPTS the Recommendation [DE 25] in full. Plaintiff’s Complaint [DE 1-3] is DISMISSED. The Clerk of Court is directed to close this case.

SO ORDERED this 10<sup>th</sup> day of October, 2024.



RICHARD E. MYERS II  
CHIEF UNITED STATES DISTRICT JUDGE